

## § 71.52

and matters, the agency will occasionally obtain information concerning actual or potential violations of law that are not strictly or technically within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific case. In the interests of effective law enforcement, it is necessary to retain some or all of such information in this system of records since it can aid in establishing patterns of compliance and can provide valuable leads for Federal and other law enforcement agencies. Moreover, it is difficult to know during the course of an investigation what is relevant and necessary. In this connection, facts or evidence may not seem relevant at first, but later in the investigation, their relevance is borne out.

(4) *Subsections (e)(4) (G) and (H).* Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act, these subsections are inapplicable to the extent that these systems of records are exempted from subsections (f) and (d).

(5) *Subsection (e)(4)(I).* The categories of sources of the records in these systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary in order to protect the confidentiality of the sources of civil law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(6) *Subsection (f).* Procedures for notice to an individual pursuant to subsection (f)(1) as to existence of records pertaining to the individual dealing with an actual or potential criminal, civil, or regulatory investigation or prosecution must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or case, pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may

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become the subject of an investigation and could enable the subjects to avoid detection, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since an exemption is being claimed for subsection (d) of the Act (Access to Records), the rules required pursuant to subsections (f)(2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

[63 FR 56741, Oct. 22, 1998, as amended at 68 FR 16399, Apr. 3, 2003]

### § 71.52 Specific exemptions pursuant to subsection (k)(5) of the Privacy Act.

(a) The following systems of records are eligible for exemption under 5 U.S.C. 552a(k)(5) because they contain investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to January 1, 1975, under an implied promise that the identity of the source would be held in confidence. Accordingly, these systems of records are exempt from (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (e)(4)(I) and (f) of 5 U.S.C. 552a.

(1) DOL/OASAM-20 (Personnel Investigation Records), a system of records maintained by the Office of the Assistant Secretary for Administration and Management (OASAM).

(2) DOL/OIG-1 (General Investigative Files, and Subject Title Index, USDOL/OIG), a system of records maintained by the Office of the Inspector General (OIG).

(3) DOL/OIG-2 (Freedom of Information/Privacy Acts Records), a system of records maintained by the OIG.

(4) DOL/OIG-3 (Case Development Records), a system of records maintained by the OIG.

(5) DOL/OIG-5 (Investigative Case Tracking Systems/Audit Information Reporting Systems, USDOL/OIG), a

system of records maintained by the OIG.

(b) This exemption applies to the extent that information in these systems is subject to exemption pursuant to 5 U.S.C. 552a(k)(5).

(c) The systems of records listed under paragraphs (a)(1) through (a)(5) of this section are exempted for the reasons set forth in paragraphs (c)(1) through (6) of this section, from the following subsections of 5 U.S.C. 552a:

(1) *Subsection (c)(3)*. The release of the disclosure accounting, for disclosures made pursuant to subsection (b) of the Act, including those permitted under the routine uses published for this system of records, would enable the subject of an investigation of an actual or potential civil case to determine whether he or she is the subject of investigation, to obtain valuable information concerning the nature of that investigation and the information obtained, and to determine the identity of witnesses or informants. Such access to investigative information would, accordingly, present a serious impediment to the investigation. In addition, disclosure of the accounting would constitute notice to the individual of the existence of a record even though such notice requirement under subsection (f)(1) is specifically exempted for this system of records.

(2) *Subsections (d)(1), (d)(2), (d)(3), and (d)(4)*. Access to the records contained in these systems would inform the subject of an actual or potential investigation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his or her activities, and of the identity of witnesses or informants. Such access would, accordingly, provide information that could enable the subject to avoid detection. This result, therefore, would constitute a serious impediment to effective investigation not only because it would prevent the successful completion of the investigation but also because it could endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(3) *Subsection (e)(1)*. The notices for these systems of records published in

the FEDERAL REGISTER set forth the basic statutory or related authority for maintenance of this system. However, in the course of civil and related investigations, cases and matters, the agency will occasionally obtain information concerning actual or potential violations of law that are not strictly or technically within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific case. In the interests of effective investigation, it is necessary to retain some or all of such information in these systems of records since it can aid in establishing patterns of compliance and can provide valuable leads for Federal and other law enforcement agencies. Moreover, it is difficult to know during the course of an investigation what is relevant and necessary. In this connection, facts or evidence may not seem relevant at first, but later in the investigation, their relevance is borne out.

(4) *Subsections (e)(4)(G) and (H)*. Since an exemption is being claimed for subsections (f) (Agency Rules) and (d) (Access to Records) of the Act, these subsections are inapplicable to the extent that these systems of records are exempted from subsections (f) and (d).

(5) *Subsection (e)(4)(I)*. The categories of sources of the records in these systems have been published in the FEDERAL REGISTER in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary in order to protect the confidentiality of the sources of investigatory information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(6) *Subsection (f)*. Procedures for notice to an individual pursuant to subsection (f)(1) as to existence of records pertaining to the individual dealing with an actual or potential investigation must be exempted because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation or

case, pending or future. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since an exemption is being claimed for subsection (d) of the Act (Access to Records), the rules required pursuant to subsections (f)(2) through (5) are inapplicable to these systems of records to the extent that these systems of records are exempted from subsection (d).

#### APPENDIX A TO PART 71—RESPONSIBLE OFFICIALS

(a)(1) The titles of the responsible officials of the various independent agencies in the Department of Labor are listed below. This list is provided for information and to assist requesters in locating the office most likely to have responsive records. The officials may be changed by appropriate designation. Unless otherwise specified, the mailing addresses of the officials shall be:

U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210–0002.  
 Secretary of Labor, *Attention:* Assistant Secretary for Administration and Management (OASAM)  
 Deputy Solicitor, Office of the Solicitor  
 Chief Administrative Law Judge, Office of the Administrative Law Judges (OALJs)  
 Legal Counsel (OALJs)  
 Assistant Secretary for Administration and Management (OASAM)  
 Deputy Assistant Secretary for Administration and Management (OASAM)  
 Director, Business Operations Center, OASAM  
 Director, Civil Rights Center, OASAM  
 Director, Human Resources Center, OASAM  
 Director, Information Technology Center, OASAM  
 Director, Worklife Center, OASAM  
 Director, Reinvention Center, OASAM  
 Director, Safety and Health Center, OASAM  
 Director, Conference and Services Center, OASAM  
 Chief Financial Officer, Office of the Chief Financial Officer  
 Associate Deputy Secretary for Adjudication  
 Chairperson, Administrative Review Board (ARB)  
 Chief Administrative Appeals Judge, Benefits Review Board (BRB)  
 Chairperson, Employees' Compensation Appeals Board (ECAB)  
 Executive Director, Office of Adjudicatory Services (OAS)  
 Director, Office of Small Business Programs

Director, Women's Bureau  
 Assistant Secretary Office of Congressional and Intergovernmental Affairs (OCIA)  
 Deputy Assistant Secretary, OCIA  
 Assistant Secretary for Policy (ASP)  
 Deputy Assistant Secretary, ASP  
 Assistant Secretary, Office of Public Affairs (OPA)  
 Deputy Assistant Secretary, OPA  
 Disclosure Officer, Office of the Inspector General (OIG)  
 Director, Office of Management, Administration and Planning Bureau of International Labor Affairs (ILAB)  
 Secretary, U.S. National Administrative Office (USNAO)  
 Assistant Secretary for Employment Standards, Employment Standards Administration (ESA)  
 Director, Office of Management, Administration and Planning (OMAP), ESA  
 Director, Equal Employment Opportunity Unit, ESA  
 Director, Office of Public Affairs, OMAP, ESA  
 Director, Division of Human Resources Management, OMAP, ESA  
 Director, Division of Legislative and Regulatory Analysis, OMAP, ESA  
 Director, Office of Workers' Compensation Programs (OWCP), ESA  
 Special Assistant to the Director, OWCP, ESA  
 Director for Federal Employees' Compensation, OWCP, ESA  
 Director for Longshore and Harbor Workers' Compensation, OWCP, ESA  
 Director for Coal Mine Workers' Compensation, OWCP, ESA  
 Administrator, Wage and Hour Division, ESA  
 Deputy Administrator, Wage and Hour Division, ESA  
 National Office Program Administrator, Wage and Hour Division, ESA  
 Deputy National Office Program Administrator, Wage and Hour Division, ESA  
 Director, Office of Enforcement Policy, Wage and Hour Division, ESA  
 Deputy Director, Office of Enforcement Policy, Wage and Hour Division, ESA  
 Director, Office of Planning and Analysis, Wage and Hour Division ESA  
 Director, Office of Wage Determinations, Wage and Hour Division ESA  
 Director, Office of External Affairs, Wage and Hour Division, ESA  
 Director, Office of Quality and Human Resources, Wage and Hour Division, ESA  
 Deputy Assistant Secretary for Federal Contract Compliance Programs (OFCCP), ESA  
 Deputy Director, Office of Federal Contract Compliance Programs, OFCCP, ESA  
 Director, Division of Policy, Planning and Program Development, OFCCP, ESA